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February 5, 2020

Via ECF

The Honorable Sarah Netburn
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *In re Terrorist Attacks on September 11, 2001*, 03-md-1570 (GBD) (SN)

Dear Judge Netburn:

I write on behalf of Defendant Kingdom of Saudi Arabia (“Saudi Arabia”) concerning Saudi Arabia’s opposition, filed under seal today, to the second motion to compel of the Plaintiffs’ Executive Committees (“Plaintiffs”), filed under seal on January 22, 2020 (“Plaintiffs’ Second Motion to Compel”); and the supporting declaration and exhibits for Saudi Arabia’s opposition, also filed under seal today.

Saudi Arabia’s filing and supporting papers contain information subject to the Privacy Act Order and Protective Order for FBI Documents, ECF No. 4255, and also contain information properly sealed or redacted under this Court’s Order dated July 22, 2019, ECF No. 4696 (“Sealing Order”), because public filing would reveal the contents of documents subject to one or both of the Vienna Conventions on Diplomatic and Consular Relations. Consistent with this Court’s guidance, ECF No. 5307, Saudi Arabia is filing signed original copies with the Clerk’s Office.

Saudi Arabia’s filing also contains exhibits and references to exhibits designated Confidential under the general MDL Protective Order, ECF No. 1900 (“MDL Protective Order”), for which Saudi Arabia is the Producing Party as defined in that Order, but that are not subject to the Vienna Conventions and so are not subject to the Sealing Order. Saudi Arabia intends to move at an appropriate time for an order permitting those additional exhibits to be maintained under seal and permitting the parts of today’s filing that discuss those exhibits to be redacted. Consistent with the timeline set forth in the Sealing Order, *see* ECF No. 4696, at 18, Saudi Arabia respectfully suggests that the parties meet and confer concerning these issues after Judge Daniels resolves Plaintiffs’ pending objections to the Sealing Order, and present any requests for relief to the Court within a reasonable period.

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Saudi Arabia's filing also contains exhibits and references to exhibits designated Confidential under the MDL Protective Order for which Saudi Arabia is not the Producing Party, but for which another party or non-party to the litigation is the Producing Party, and which that party or non-party has designated Confidential. Saudi Arabia understands that the Producing Parties for such information object to such information being filed on the public docket. Saudi Arabia respectfully suggests that those additional Producing Parties be included in meet-and-confer discussions at an appropriate time and given reasonable opportunities to present any requests for relief to the Court.

Saudi Arabia further notes that Plaintiffs' Second Motion to Compel and supporting papers also contain information falling into the above categories. Plaintiffs' reply next week is likely to contain at least some such information as well. Accordingly, those filings should also be included in the parties' meet-and-confer discussions, including, where appropriate, discussions with Producing Parties other than Saudi Arabia.

Finally, Saudi Arabia is aware that the Court's Electronic Case Filing Rules and Instructions ("ECF Rules") have recently been amended to permit electronic filing under seal. Saudi Arabia also learned earlier today that the Court's Individual Practices have just been amended to permit electronic filing under seal under the new ECF Rules. Counsel welcome the convenience of the new method and look forward to using it in the future. For purposes of today's filing, however, we respectfully request that the Court accept our filing using the old procedure in order to avoid any inadvertent disclosure of protected information, in light of the complexity of the case, the large number of attorneys on the docket, and the use of secondary email addresses by a number of attorneys, *see* ECF Rules § 6.15.

Copies of Saudi Arabia's filing (clean and with highlighted proposed redactions) are being sent today by email to chambers and to counsel for Plaintiffs, the United States, and Dallah Avco. Copies are also being sent overnight to Judge Daniels.

Respectfully submitted,

/s/ Michael K. Kellogg

Michael K. Kellogg
Counsel for the Kingdom of Saudi Arabia

cc: The Honorable George B. Daniels (via facsimile)
All MDL Counsel of Record (via ECF)